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Attorneys for Defendant LifeMap Assurance  
Company

UNITED STATES DISTRICT COURT  
DISTRICT OF OREGON  
PORTLAND DIVISION

**LISA EPHREM, dba CARR CITY,**

Plaintiff,

v.

**LIFEMAP ASSURANCE COMPANY,**

Defendant.

Case No. 3:13-cv-01693-PK

**DEFENDANT'S MOTION TO DISMISS**

Pursuant to Fed. R. Civ. P. 12(b)(6)

**Oral Argument Requested**

**L.R. 7-1(a) CERTIFICATE OF COMPLIANCE**

Pursuant to Local Rule 7-1(a), Defendant certifies that the parties made a good faith effort through a telephone call between counsel on September 27, 2013, to resolve their dispute and have been unable to do so.

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**MOTION**

Pursuant to Fed. R. Civ. P. 12(b)(6) Defendant LifeMap Assurance Company (“LifeMap”) moves the Court to dismiss Plaintiff Lisa Ephrem, dba Carr City’s (“Plaintiff”) Complaint alleging common law breach of contract, breach of the covenant good faith and fair dealing, and breach of covenant of good faith and fair dealing-sounding in tort for failure to state a claim upon which relief can be granted. Plaintiff seeks to recover benefits allegedly due under the terms of an employee welfare benefit plan, specifically a group life insurance policy. Plaintiff’s Complaint is preempted by the Employee Retirement Income Security Act of 1974 (“ERISA”), 29 U.S.C. § 1001 *et seq.* The sole and exclusive remedy for a benefit due under the policy is a civil enforcement action under 29 U.S.C. § 1132(a). In addition, Plaintiff is not the beneficiary allegedly owed the death benefit and lacks standing to bring a claim. Thus, Plaintiff’s Complaint should be dismissed in its entirety.

This Motion is supported by the Memorandum Supporting LifeMap’s Motion to Dismiss filed herewith.

DATED this 30<sup>th</sup> day of September, 2013.

Respectfully submitted,

GARVEY, SCHUBERT & BARER

By s/Eric A. Lindenauer  
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**CERTIFICATE OF SERVICE**

I hereby certify that the foregoing **DEFENDANT'S MOTION TO DISMISS** was served on:

Jacob Wieselmann  
Wieselmann Law Group  
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Portland, OR 97209

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*Attorney for Plaintiff*

by mailing to him a copy of the original thereof, contained in a sealed envelope, addressed as above set forth, with postage prepaid, and deposited in the mail in Portland, Oregon, on September 30, 2013.

s/ Eric A. Lindenauer  
Eric A. Lindenauer, OSB #833721

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